

**UNITED STATES DISTRICT COURT
DISTRICT OF MAINE**

UNITED STATES OF AMERICA,)	
)	
)	
v.)	CRIM. NOS. 2:18-CR-37-DBH-01
)	AND 2:19-CR-05-DBH
RYAN LANDERS,)	
)	
DEFENDANT)	

PROCEDURAL ORDER

I recently learned in United States v. Faucette, 2:13-cr-79-DBH-01, that the Department of Justice takes the position that a prisoner is not required to exhaust administrative appeal remedies within the Bureau of Prisons before filing a motion in court under the First Step Act, and may file the motion 30 days after submitting a request for compassionate release to the Warden, regardless of whether the Warden denied the request. Gov't Resp. to Procedural Order, United States v. Faucette, 2:13-cr-79-DBH-01 (D. Me. Aug. 5, 2020) (ECF No. 266).

In this case, without knowing that the Justice Department believes that exhaustion is not required, I earlier denied without prejudice Landers' request for judicial relief of compassionate release from prison because he had not exhausted administrative appeals. Order (Crim. No. 2:18-cr-37-DBH (ECF No. 161); Crim. No. 2:19-cr-05-DBH (ECF No. 82)). But as I said in Faucette, the government can waive the exhaustion requirement, and I treat it now as having done so. Second Procedural Order, United States v. Faucette, 2:13-cr-79-DBH-01 (D. Me. Aug. 11, 2020) (ECF No. 267).

I therefore now **VACATE** the denial and **DIRECT** the Clerk's Office to appoint counsel and issue the procedural order contemplated by General Order 2020-6(C).

SO ORDERED.

DATED THIS 18TH DAY OF AUGUST, 2020

/s/D. BROCK HORNBY

D. BROCK HORNBY

UNITED STATES DISTRICT JUDGE